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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,022	02/26/2004	Liam Ward	12013/49901	2910
23838	7590	04/26/2006	EXAMINER	
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			SWEET, THOMAS	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/786,022	WARD, LIAM	
	Examiner	Art Unit	
	Thomas J. Sweet	3738	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see the remarks, filed 03/20/2006, with respect to regarding drawings have been fully considered and are persuasive. The objections to the drawings has been withdrawn.

Applicant's arguments, see the remarks, filed 03/20/2006, with respect to regarding Brightbill have been fully considered and are persuasive. The rejections under 35 USC 102 and 103 of claims 1-4, 6-11 and 13 have been withdrawn. Applicant's arguments with respect to claims 1-4, 6-11 and 13 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 03/20/2006 have been fully considered but they are not persuasive. Regarding the rejection under 35 USC 102 in view of Song, the mesh identified as the second stent is scaffold in that it holds reinforces the coating to prevent cells from penetrating to the inside and inherently supports the vessel wall between the hole of the inner stent. Additionally, such mesh material is commonly referred to as a stent in the art.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Song (US 5330500). Song discloses a stent comprising: a first stent member having a patterned

Art Unit: 3738

structure (fig. 3); and a second stent member having a patterned structure (91); a delivery device adapted to expand the stents simultaneously (col 5, lines 51-56) wherein the first stent member is located inside of the second stent member (as seen in fig. 4) and is affixed to the second stent member; and wherein at least one of the first stent member and the second stent member has a coating on it (Col 3, line 46-48).

With regard to claims 5 and 12, the patterned structure of the first stent member is different from the patterned structure of the second stent member (as seen in fig. 4).

With regard to claim 10, the first stent member is joined to the second stent member (adhesive, col 3 line 45).

With respect to claim 13, the unit structure of fig. 1 can be characterized as a first stent having a different length than the second stent (91)

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Song. Song discloses a stent assembly as discussed above. However, Song does not disclose the patterned structure inside stent being the same as the outside stent. It is well known in the art of stents to have a mesh structure for the purpose of supporting a vessel wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a mesh stent for the inside stent of Song as an alternative vessel support. Such a modification amounts to

Art Unit: 3738

mere substitution of one functionally equivalent stent for another with in the art of stents.

Additionally, a mesh stent can be characterized as having generally the same pattern as the outside stent.

Claims 2, 3, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Song in view of Khosravi et al. (US 6793672). Song discloses a stent assembly as discussed above. However, Song does not disclose a coating on the inside stent. Khosravi et al discloses another stent assembly including a inside coating on the inside stent for the purpose of treating the thrombosis with heparin. It would have been obvious to one of ordinary skill in the art at the time the invention was made to coat the inside of the stent assembly including the inside stent of Song with a heparin coating as taught by Khosravi et al in order to treat thrombosis.

#### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Porter (US 5064435).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3738

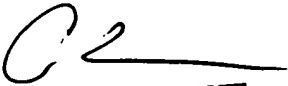
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Sweet whose telephone number is 571-272-4761. The examiner can normally be reached on 6:30 am - 5:00pm, M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tjs

  
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